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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,940	09/27/2001	Syunichi Mukai	JP20000206US1	3357

7590 04/21/2005

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EXAMINER
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VU, THONG H

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/965,940

Applicant(s)

MUKAI, SYUNICHI

Examiner

Thong H. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-19 are pending.

***Response to Arguments***

2. Applicant's arguments filed 2/22/05 have been fully considered but they are moot to new ground of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

3. Claims 1-19 are rejected under 35 U.S.C. § 103 as being obvious over Mastronardi et al [Mastronardi 6,578,051 B1] in view of Chiu et al [Chiu 6,076,111].
4. As per claim 1, Mastronardi discloses a music distribution method for downloading, in response to a request from a user, music data for one more musical pieces (i.e.: songs) included in the latest hit charts (i.e.: an album) from a server storing lot of music data, comprising the steps of:

Mastronardi also discloses determining if the information in database needs to be updated [Mastronardi, col 7 line 42-col 8 line 30; col 24 lines 22-37]; and downloaded any new songs [Mastronardi, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14]. However Mastronardi does not explicitly detail

determining whether music data to be downloaded from said server are already stored in a terminal said user and downloading, from said server to said terminal, only music data that are not stored in said terminal.

In the same endeavor, Chiu discloses a multimedia web server downloads a page (i.e.: isochronous data, audio, video) in the album, compares and stored [Chiu, col 5 lines 1-45] and determines that the selected identifier is not already used or a new media container [Chiu, col 6 lines 32-58]

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to take advantage of the server determined the selected identifier (i.e.: filename, song title) is not used as taught by Chiu into the Mastronardi's apparatus in order to utilize the download process. Doing so would eliminate the transfer data unnecessary between client and server.

5. As per claim 2, Mastronardi-Chiu disclose performed prior to said determining step, of accessing a list of musical pieces included in a latest hits chart and indicating songs which are ranked at the first to predetermined places on said latest hit charts as said music data to be downloaded as inherent feature of the list or database [Mastronardi, the updated information in database including identifies each song, col 10 lines 29-42; the of album name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines 41-58].

6. As per claim 3, Mastronardi-Chiu disclose downloading latest charts list including places, titles and singer names said terminal from said server [Mastronardi,downloaded any new songs, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14]; and updating a hit charts list of the user stored in said terminal based on said latest hit charts list [Mastronardi,determine if the information in database needs to be updated, col 7 line 42-col 8 line 30; col 24 lines 22-37].

7. As per claim 4, Mastronardi-Chiu disclose deleting music data that stored in said terminal and are not included in said latest charts [Mastronardi,deletion of an album, col 15 lines 3-8; delete information in the database, col 19 lines 16-26; deletion of a table in master catalogue, col 22 lines 14-34; the program was deleted from the jukebox, col 23 lines 7-16].

8. As per claim 5, Mastronardi-Chiu disclose said step of determining whether music data to be downloaded from said server are already stored in a terminal of said user includes the step of comparing the titles musical pieces on said latest hit charts list with those said hit charts list held in said user terminal [Mastronardi, the filters, col 2 lines 54-64. It was obvious the filter contains a condition to compare data].

9. As per claim 6, Mastronardi-Chiu disclose said step determining whether music data to be downloaded from said server are already stored terminal of said user includes the step of transmitting said charts of said user to said server, which then

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performs said step of comparing the titles of musical pieces on said latest hit charts list with those on said hit charts list held in said user terminal [Mastronardi, the filters, col 2 lines 54-64].

10. As per claim 7, Mastronardi-Chiu disclose said terminal is a personal computer [Mastronardi, a computer with a link to the server, col 1 lines 13-27].

11. As per claim 8, Mastronardi-Chiu disclose said terminal a portable terminal having a music playback function (i.e.: a jukebox or computing device with the management of computer files or operating parameter), one or more downloading terminals are connected to said server via a network and said determining step and said downloading step are performed by connecting said downloading terminal said portable terminal or a storage medium to be loaded said portable terminal [Mastronardi, a computer link to the host server to download new songs, col 1 lines 12-28].

12. As per claim 9, Mastronardi-Chiu disclose downloading a latest hit charts list including places, titles and singer names to said downloading terminals from said server [Mastronardi, identifies each song, col 10 lines 29-42; a promoter, col 11 lines 32-64; the of album name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines 41-58]; and updating hit charts list of the user stored in said portable terminal or said storage medium based on said latest hit charts list [Mastronardi, update by downloading of new songs, col 11 lines 1-31].

13. Claims 10-19 contain the similar limitations set forth of claims 1-9. Therefore, claims 10-19 are rejected for the similar rationale set forth in claims 1-9.

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14. Claims 1-19 are rejected under 35 U.S.C. § 103 as being obvious over Tsurumi et al [Tsurumi, 5,824,934] in view of Shuster [6,826,546 B1].

15. As per claim 10, Tsurumi discloses a music distribution method for downloading, in response to a request from a user (i.e.: a karaoke apparatus), music data for one more musical pieces (included in the latest hit charts from a server storing lot of music data), comprising the steps of:

determining whether music data to be downloaded from said server are already stored in a terminal said user and downloading, from said server to said terminal, only music data that are not stored in said terminal [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus and download only the newly release music file, col 3 lines 23-37].

However, Tsurumi does not detail explicitly the server stored the latest hit charts. It was well-known in the music distributed system that the latest hit song or the favorite music could be selected and downloaded [see Shuster, col 1 lines 35-50; Tone, col 1 lines 17-35]

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to take advantage of the downloading the favorite song or top-hit music as taught by Shuster into the Tsurumi's apparatus in order to utilize the download

process. Doing so would provide the client an opportunity to updated the most popular or selected music or songs via network.

16. As per claim 2, Tsurumi-Shuster disclose performed prior to said determining step, of accessing a list of musical pieces included in a latest hits chart and indicating songs which are ranked at the first to predetermined places on said latest hit charts as said music data to be downloaded [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus an download only the newly release music file, col 3 lines 23-37].

17. As per claim 3, Tsurumi- Shuster disclose downloading latest charts list including places, titles and singer names said terminal from said server; and updating a hit charts list of the user stored in said terminal based on said latest hit charts list [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus an download only the newly release music file, col 3 lines 23-37].

18. As per claim 4, Tsurumi-Shuster disclose deleting music data that stored in said terminal and are not included in said latest charts [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus an download only the newly release music file, col 3 lines 23-37].



19. As per claim 5, Tsurumi-Shuster disclose said step of determining whether music data to be downloaded from said server are already stored in a terminal of said user includes the step of comparing the titles musical pieces on said latest hit charts list with those said hit charts list held in said user terminal [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus an download only the newly release music file, col 3 lines 23-37].

20. As per claim 6, Tsurumi-Shuster disclose said step determining whether music data to be downloaded from said server are already stored terminal of said user includes the step of transmitting said charts of said user to said server, which then performs said step of comparing the titles of musical pieces on said latest hit charts list with those on said hit charts list held in said user terminal [Tsurumi, compares the list of the karaoke apparatus and the list of the host apparatus an download only the newly release music file, col 3 lines 23-37].

21. As per claim 7, Tsurumi-Shuster disclose said terminal is a personal computer [Shuster, Internet, col 4 lines 32-52].

22. As per claim 8, Tsurumi-Shuster disclose said terminal a portable terminal having a music playback function, one or more downloading terminals are connected to said server via a network and said determining step and said downloading step are

performed by connecting said downloading terminal said portable terminal or a storage medium to be loaded said portable terminal as inherent feature of Internet device.

23. As per claim 9, Tsurumi-Shuster disclose downloading a latest hit charts list including places, titles and singer names to said downloading terminals from said server; and updating hit charts list of the user stored in said portable terminal or said storage medium based on said latest hit charts list [Shuster, download the list of favorite music, col 1 lines 35-50].

24. Claims 10-19 contain the similar limitations set forth of claims 1-9. Therefore, claims 10-19 are rejected for the similar rationale set forth in claims 1-9.

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25. Claims 1-19 are rejected under 35 U.S.C. § 103 as being obvious over Mastronardi et al [Mastronardi 6,578,051 B1] in view of Shuster [6,826,546 B1].

26. As per claim 1, Mastronardi discloses a music distribution method for downloading, in response to a request from a user, music data for one more musical pieces (i.e.: songs) included in the latest hit charts (i.e.: an album) from a server storing lot of music data, comprising the steps of:

Mastronardi also discloses determining if the information in database needs to be updated [Mastronardi, col 7 line 42-col 8 line 30; col 24 lines 22-37]; and downloaded any new songs [Mastronardi, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14]. However Mastronardi does not explicitly detail

determining whether music data to be downloaded from said server are already stored in a terminal said user and downloading, from said server to said terminal, only music data that are not stored in said terminal.

In the same endeavor, Shuster discloses the music distributed system that the latest hit song or the favorite music could be selected and downloaded [Shuster, col 1 lines 35-50].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to take advantage of the search, comparing or matching and selected music as taught by Shuster into the Mastronardi's apparatus in order to utilize the download process. Doing so would eliminate the transfer data unnecessary between client and server.

27. As per claim 2, Mastronardi-Shuster disclose performed prior to said determining step, of accessing a list of musical pieces included in a latest hits chart and indicating songs which are ranked at the first to predetermined places on said latest hit charts as said music data to be downloaded as inherent feature of the list or database [Mastronardi, the updated information in database including identifies each song, col 10 lines 29-42; the of album name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines 41-58].

28. As per claim 3, Mastronardi-Shuster disclose downloading latest charts list including places, titles and singer names said terminal from said server

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[Mastronardi,downloaded any new songs, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14]; and updating a hit charts list of the user stored in said terminal based on said latest hit charts list [Mastronardi,determine if the information in database needs to be updated, col 7 line 42-col 8 line 30; col 24 lines 22-37].

29. As per claim 4, Mastronardi-Shuster disclose deleting music data that stored in said terminal and are not included in said latest charts [Mastronardi,deletion of an album, col 15 lines 3-8; delete information in the database, col 19 lines 16-26; deletion of a table in master catalogue, col 22 lines 14-34; the program was deleted from the jukebox, col 23 lines 7-16].

30. As per claim 5, Mastronardi-Shuster disclose said step of determining whether music data to be downloaded from said server are already stored in a terminal of said user includes the step of comparing the titles musical pieces on said latest hit charts list with those said hit charts list held in said user terminal [Mastronardi, the filters, col 2 lines 54-64. It was obvious the filter contains a condition to compare data].

31. As per claim 6, Mastronardi-Shuster disclose said step determining whether music data to be downloaded from said server are already stored terminal of said user includes the step of transmitting said charts of said user to said server, which then performs said step of comparing the titles of musical pieces on said latest hit charts list

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with those on said hit charts list held in said user terminal [Mastronardi, the filters, col 2 lines 54-64].

32. As per claim 7, Mastronardi-Shuster disclose said terminal is a personal computer [Mastronardi, a computer with a link to the server, col 1 lines 13-27].

33. As per claim 8, Mastronardi-Shuster disclose said terminal a portable terminal having a music playback function (i.e.: a jukebox or computing device with the management of computer files or operating parameter), one or more downloading terminals are connected to said server via a network and said determining step and said downloading step are performed by connecting said downloading terminal said portable terminal or a storage medium to be loaded said portable terminal [Mastronardi, a computer link to the host server to download new songs, col 1 lines 12-28].

34. As per claim 9, Mastronardi-Shuster disclose downloading a latest hit charts list including places, titles and singer names to said downloading terminals from said server [Mastronardi, identifies each song, col 10 lines 29-42; a promoter, col 11 lines 32-64; the of album name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines 41-58]; and updating hit charts list of the user stored in said portable terminal or said storage medium based on said latest hit charts list [Mastronardi, update by downloading of new songs, col 11 lines 1-31].

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35. Claims 10-19 contain the similar limitations set forth of claims 1-9. Therefore, claims 10-19 are rejected for the similar rationale set forth in claims 1-9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Thong Vu*  
*Patent Examiner*  
*Art Unit 2142*

A handwritten signature in black ink, appearing to read 'Thong Vu', with a horizontal line underneath.